



April 6, 1999

Mr. Eric Magee
Staff Attorney
Legal and Compliance Division
MC 110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR99-0926

Dear Mr. Magee:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 123159.

The Texas Department of Insurance (the “department”) received a request for “a printout of consumer complaints” concerning Humana Health Plan of Texas, Inc. You state that some of the responsive information will be released. You claim, however, that information identifying individuals who have filed complaints against Health Maintenance Organizations (“HMOs”) is excepted from disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. We have considered the exception you claim and reviewed the sample complaint information.¹

Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This section encompasses information protected by common-law privacy and excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 at 1 (1992).

¹We assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

We have reviewed the information at issue and agree that information identifying individuals as enrollees in a particular HMO is confidential. Open Records Decision Nos. 600 at 9-12 (1992) (personal financial choices concerning insurance are generally confidential), 373 (1983) (personal financial information generally confidential). Therefore, the department must redact all identifying information, including names, street addresses, and telephone numbers. The remaining information in the submitted documents must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in cursive script, appearing to read "June B. Harden".

June B. Harden
Assistant Attorney General
Open Records Division

JBH\nc

Ref: ID# 123159

Enclosures: Submitted documents

cc: Ms. Brooke D. Roberts
Attorney at Law
4830 West Kennedy Boulevard, Suite 147
Tampa, Florida 33609
(w/o enclosures)